

Civil Rights

Office of the Governor
Criminal Justice Division

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Civil Rights Laws

1	Title VI of the Civil Rights Act of 1964: Prohibiting discrimination in programs or activities on the basis of race, color and national origin.
2	Program Statutes (e.g. Safe Streets Act, Victims of Crime Act, JJDPa): Prohibiting discrimination in employment practices or in programs and activities on the basis of race, color, religion, national origin, and sex.
3	Section 504 of the Rehabilitation Act of 1973: Prohibiting discrimination in employment practices or in programs and activities on the basis of disability.
4	Title II of the Americans with Disabilities Act of 1990: Prohibiting discrimination in services, programs, and activities on the basis of disability.
5	Age Discrimination Act of 1975: Prohibiting discrimination in programs and activities on the basis of age.
6	Title IX of the Education Amendments of 1972: Prohibiting discrimination in educational programs or activities on the basis of sex.

Some of the Civil Rights Laws are Cross Cutting Statutes which means they apply to all Federal Funding regardless of the Federal Funding Agency.

Cross Cutting Statutes = Title VI of the Civil Rights Act; Section 504 of the Rehabilitation Act; Title II of the ADA; Age Discrimination Act; and Title IX of the Education Amendment

When the Statute uses the language "program or activity" this means the statute applies to all of the operations of the organization and not just service or activity funded.

Protected Classes



- Race
- Color
- National Origin
- Sex
- Religion
- Disability
- Age

Protected Classes are important to understand.

Color - Not the same as Race – Example: A dark skinned African-American may be able to show discrimination if a company only hires or provides services to light skinned African-Americans.

Sex - Includes pregnancy, sexual harassment, and sex stereotyping but DOES NOT include sexual orientation or gender identity.

Religion – Not just limited to membership of a particular religious group (i.e. baptist, catholic, muslim, etc.). Definition applies to any sincerely held moral or ethical beliefs. Example: If a funded organization refuses to provide services to someone who doesn't share the organizations belief on the death penalty, that person could have a discrimination claim because he/she was denied services based on a sincerely held moral or ethical belief. Federal funded programs have an obligation to accommodate a persons religious practices or beliefs as long as the accommodation does not pose an undue burden on the program.

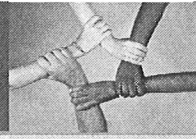
Disability – Persons with a disability have the right to require federally funded program to modify programs to make them accessible, unless the modification would impose an undue burden or hardship, or alter the nature of the program. Example: An after school program may have to provide interpretation services to a person who is hearing impaired.

No Retaliation

- If a person files an employment or service discrimination complaint, regardless of its merits, an employer or service provider cannot retaliate against the person who filed the complaint.
- Retaliation claims are often easier to prove than the underlying discrimination claim.

Retaliation claims stand on their own without regard to the outcome of the discrimination claim.

Title VI of the Civil Rights Act of 1964



- Provides the basis for civil rights protection in Federally assisted programs.
- Applies to the whole organization receiving Federal funds, not just the specific grant funded program.
- Prohibits the following on the basis of race, color or national origin:
 - Treating individuals differently when determining eligibility for services.
 - Denying the opportunity to participate as a member of a planning or advisory body.
 - Selecting a program's location with the purpose or effect of excluding individuals.

Disability Discrimination



Section 504 of the Rehabilitation Act of 1973

- Applies to recipients of federal funding and prohibits discrimination against qualified individuals on the basis of disability.

Title II of the Americans with Disabilities Act of 1990 (ADA)

- Applies to public entities, whether or not they receive federal funding and prohibits discrimination against qualified individuals on the basis of disability.

Defines a person with a disability as a person who has a physical or mental impairment which substantially limits one or more life activity, or a person who has a record of such impairment, or is regarded as having such an impairment whether or not they are disabled.

DOJ Program Statutes

Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act)

⇒ The Safe Streets act prohibits discrimination against any person on the grounds of race, color, religion, national origin, or sex.

Victims of Crime Act (VOCA)

⇒ VOCA prohibits the exclusion of benefits, services or employment to individuals on the grounds of race, color, religion, national origin, handicap, or sex.

Juvenile Justice and Delinquency Prevention Act (JJDP)

⇒ JJDP prohibits discrimination on the basis of race, color, religion, national origin, or sex.

⇒ These Acts apply to both employment in connection with the agency and services offered by the agency.

Applies only to DOJ funding. Program Statutes are the most powerful Civil Rights Laws enforced by DOJ.

Ways to Prove Discrimination



Disparate Treatment

Intentionally treating individuals in a protective class differently.

Disparate Impact

Neutral policy or procedure has the effect of discriminating against individuals of a protected class.

Disparate Treatment – To prove discrimination based on disparate treatment a person has to show they are member of a protected class, their application for services or employment was rejected based on a protected class status, and they have to show others from that protected class were also denied.

Disparate Impact – Example: An employer may have a test that has the effect of disproportionately eliminated females. In order to prove their intent was not to eliminate females, the employer would have to show the test was valid, it measures the ability of the person to perform the job, it's related to a business necessity and the screening device was a least restrictive means available.

National Origin Discrimination

Includes Discrimination on the basis of LEP

A Limited English Proficient person has a first language other than English and has a limited ability to read, speak, write, or understand English.

Avoid Discrimination Against LEP Persons

- Take reasonable steps to ensure meaningful access to the programs, services and information free of charge.
- Establish and implement policies and procedures for language assistance services that provide LEP persons with meaningful access.

Provide Language Services

- Oral (Interpretation) Services – Ensure interpreter is competent. NOTE: In most instances, family members, friends and uncertified persons are NOT appropriate.
- Written (Translation) Services – Provide translation of written materials, especially vital documents.

Develop a Language Access Plan (Go to www.LEP.gov for more information)

- Ensures consistent application of policies and practices
- Provides the basis for training staff on how best to serve LEP persons
- Informs LEP persons about available language access services

What are Reasonable Steps?

There's a 4 factor analysis to determine reasonable steps:

- 1) Examine the number or proportion of LEP persons served or encountered in the eligible service population. The greater the number or proportion of LEP persons served the greater the need for language services.
- 2) Determine the frequency with which LEP persons come in contact with the program. The greater the frequency the greater the need for language services.
- 3) Determine the importance of the program/information/service (or the consequence if the service is not provided). The greater the consequence the greater the need.
- 4) Assess the resources available in the costs of the language services. This may have an impact on the steps that need to be taken to provide language services.

Written (Translation) Services – When determining which documents to translate, take into account the consequence to the LEP person if the information is not provided.

Equal Employment Opportunity Plan (EEOP)

An EEOP is a comprehensive document which analyzes:

- an agency's workforce in comparison to relevant labor market data
- employment practices to determine their impact on the basis of race, national origin, and sex.

The EEOP is a tool to identify possible discriminatory practices.

Go to www.ojp.usdoj.gov/about/offices/ocr.htm for more information on agency EEOP obligations.

Faith Based Organization (FBO) Guidance



FBO Practices

- FBOs may not use Federal funding to advance inherently religious activities.
- FBOs may not discriminate against beneficiaries based on religion or religious belief.
- FBO Regulations do not alter existing statutory non-discrimination provisions against employment discrimination.

FBO Treatment

- Obstacles to the inclusion of FBOs in funding programs must be eliminated
- FBOs must be given equal treatment as other organizations

Filing a Discrimination Complaint



CJD's Civil Rights Complaint Coordinator

- The following must be promptly sent to the Coordinator:
 - A pertinent complaint of services or employment discrimination against CJD or a DOJ-funded sub-recipient
 - Information about potential discrimination issues involving CJD or DOJ-funded sub-recipient.
- The Coordinator will refer pertinent services discrimination complaints to the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice.
- The Coordinator will refer pertinent employment discrimination complaints to the U.S. Equal Employment Opportunity Commission.